

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO.15437 of 2006

DATE OF DECISION: 28.9.2006

Dr.Gurpal Singh

....Petitioner.

Versus

State of Punjab and others

....Respondents.

CORAM: HON'BLE MR.JUSTICE J.S. KHEHAR
HON'BLE MR. JUSTICE S.D. ANAND

PRESENT: Mr. D.K. Bhatti, Advocate for the petitioner.

Mr. Ashok Aggarwal, Addl. A.G. Punjab,
for the respondents.

J.S. Khehar, J.(oral)

In furtherance of our order dated 26.9.2006, passed during the motion hearing of the main case, we had directed learned counsel for the respondents to place on the record of this case the transfer order, if any, which had been passed, so as to dislocate the petitioner from his existing posting at Jalandhar.

Learned counsel for the respondents has handed over to us in Court today Memorandum dated 28.9.2006, enclosing therewith a joint transfer order passed in respect of 598 doctors. The name of the petitioner finds mention at serial No. 263 in the aforesaid transfer order, whereby the petitioner has been transferred from Civil Hospital, Jalandhar, to Civil Hospital, Nakodar. Learned counsel for the respondents has also handed over to us the vacancy position at Civil Hospital, Jalandhar, as well as, at Civil Hospital, Nakodar. The same are taken on record and marked as

Annexure `A. It is pointed out by the learned counsel for the respondents that there are two sanctioned posts in the speciality of Ophthalmology at Civil Hospital, Jalandhar, whereas there were three officers with the aforesaid specialisation posted at Jalandhar. As against the aforesaid, the position at Civil Hospital, Nakodar, is depicted, by asserting, that there is one sanctioned post for the speciality of Ophthalmology at the said hospital, which was vacant before the petitioner was posted there. It is, therefore, asserted, that the petitioner was transferred on account of the fact that his posting at Jalandhar was in excess of the sanctioned strength.

Despite the explanation tendered by the learned counsel for the respondents, it is vehemently contended on behalf of the petitioner, that the petitioner is to retire on attaining the age of superannuation on 28.2.2007, and as such, as merely five months are to go before his retirement on superannuation, the respondents should be restrained from passing the instant transfer order, in view of the express policy guidelines issued by the State Government itself. Additionally, it is asserted, that the petitioner is suffering from lower back pain, and as such, his transfer at this juncture, immediately preceding his retirement, would result in extreme hardship to the petitioner.

In view of the reasons brought out by the learned counsel for the respondents, depicting why the petitioner came to be transferred from Jalandhar to Nakodar, we are satisfied that the transfer of the petitioner was in administrative exigency, so as to deal with the excess posting of specialists in the field of Ophthalmology at Jalandhar, as well as, to make a specialist in the field of Ophthalmology available at Nakodar, where there was none. In view of the above, we are also of the view that the transfer of

the petitioner is neither motivated, nor based on extraneous consideration and/or mala fides.

Despite our observations noticed hereinabove, we are of the view that the petitioner should be allowed to retain his residential quarter at Jalandhar, so as to cause least hardship to him and the members of his family, specially his children, who are stated to be school going at Jalandhar. This arrangement has been made keeping in mind that it would be possible for the petitioner to travel from Jalandhar to Nakodar to attend to his duties, since the distance between the two cities is stated to be approximately 25/30 KMs. The petitioner, who is present in Court in person, states that he will vacate the residential accommodation or or before the date of his retirement i.e. 28.2.2007.

Disposed of in the aforesaid terms.

Copy dasti, on payment of usual charges.

(J.S. Khehar)
Judge

(S.D. Anand)
Judge

September 28, 2006.
vig